

September 22, 2021

VIA ELECTRONIC FILING

The Honorable Jocelyn G. Boyd
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive
Columbia, South Carolina 29210

**In Re: Docket No. 2021-9-E, Dominion Energy South Carolina, Incorporated's
2021 Integrated Resource Plan (IRP) (See also Docket No. 2019-226-E)**

Dear Ms. Boyd:

On behalf of the Southern Alliance for Clean Energy ("SACE") and the South Carolina Coastal Conservation League ("CCL") (collectively, "SACE/CCL"), we submit this letter in response to the letter filed by Dominion Energy South Carolina ("DESC") earlier today.

SACE and CCL attempted to reach an agreement with DESC and all other parties on a proposed schedule to present to the Commission. DESC, Sierra Club, Carolinas Clean Energy Business Association, and the Office of Regulatory Staff ("ORS") responded; as was already established in parties' earlier comments on the schedule and the subsequent oral arguments, no party objected to the proposed schedule for the ORS report and parties' comments. DESC, however, indicated that it would object to the inclusion of any terms related to parties' ability to request an evidentiary hearing.

As we understood that term to be a central component of Commissioner Ervin's request, and because every other party to this proceeding was amenable to its inclusion, we did not think it was appropriate to omit it entirely. Instead, we offered to indicate in the motion that DESC agreed with the proposed schedule for the report and comments, but objected to the term related to requesting an evidentiary hearing. DESC counsel responded as follows:

"DESC does not authorize you to make any representations concerning its position in this matter. DESC will communicate with the Commission directly."

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Atlanta
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Charleston
Nashville
Richmond
Washington, DC

SACE/CCL complied with that request and removed all references to DESC in the joint motion. It is unclear why DESC was not amenable to simply stating its position on the evidentiary hearing within the joint motion to the Commission.

Lastly, we would note that DESC omitted several of the emails between DESC and SACE/CCL counsel. We have included the entirety of that email chain here, as DESC's omission of those emails creates an incomplete picture of SACE/CCL's good faith efforts to reach agreement. We sincerely hoped to submit a proposed procedural schedule that all parties could agree to; unfortunately, DESC's responses indicated an unwillingness to reach a workable solution for all parties.

Sincerely,

/s/Kate Mixson

Southern Environmental Law Center
525 East Bay Street, Suite 200
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kmixson@selcsc.org

*Counsel for South Carolina Coastal Conservation League
and Southern Alliance for Clean Energy*

RE: [External] RE: Proposed Procedural Schedule for 2021 DESC IRP Update (DN 2021-9-E and 2019-226-E)

Zeigler, Belton <Belton.Zeigler@wbd-us.com>

Tue 9/21/2021 10:50 AM

Inbox

To: Kate Lee Mixson <kmixson@selcsc.org>; Bateman, Andrew <abateman@ors.sc.gov>; chad.burgess@dominionenergy.com <chad.burgess@dominionenergy.com>; matthew.gissendanner@dominionenergy.com <matthew.gissendanner@dominionenergy.com>; Grube-Lybarker, Carri <clybarker@scconsumer.gov>; Hall, Roger <rhall@scconsumer.gov>; Edwards, Nanette <nedwards@ors.sc.gov>; Richard@rlwhitt.law <Richard@rlwhitt.law>; bsnowden@kilpatricktownsend.com <bsnowden@kilpatricktownsend.com>; jamey.goldin@jameygoldin.com <jamey.goldin@jameygoldin.com>; court.walsh@nelsonmullins.com <court.walsh@nelsonmullins.com>; Gudrun Thompson <gthompson@selcnc.org>; bguild@mindspring.com <bguild@mindspring.com>; dori.jaffe@sierraclub.org <dori.jaffe@sierraclub.org>; Emma Clancy <eclancy@selcsc.org>;

Kate:

DESC does not authorize you to make any representations concerning its position in this matter. DESC will communicate with the Commission directly.

Belton

From: Kate Lee Mixson <kmixson@selcsc.org>

Sent: Monday, September 20, 2021 4:03 PM

To: Zeigler, Belton <Belton.Zeigler@wbd-us.com>; Bateman, Andrew <abateman@ors.sc.gov>; chad.burgess@dominionenergy.com; matthew.gissendanner@dominionenergy.com; Grube-Lybarker, Carri <clybarker@scconsumer.gov>; Hall, Roger <rhall@scconsumer.gov>; Edwards, Nanette <nedwards@ors.sc.gov>; Richard@rlwhitt.law; bsnowden@kilpatricktownsend.com; jamey.goldin@jameygoldin.com; court.walsh@nelsonmullins.com; Gudrun Thompson <gthompson@selcnc.org>; bguild@mindspring.com; dori.jaffe@sierraclub.org; Emma Clancy <eclancy@selcsc.org>

Subject: Re: [External] RE: Proposed Procedural Schedule for 2021 DESC IRP Update (DN 2021-9-E and 2019-226-E)

Belton,

Given that the proposed comment schedule was already agreed to by all parties in the filed comments and subsequent oral arguments, we disagree with your interpretation of Commissioner Ervin's comments; we understood his request as asking that we make best efforts to reach agreement between all parties on all the issues raised at the oral arguments. It appears that we cannot reach agreement on the issue of requesting a hearing. If DESC would object to that term in the motion, we can indicate as such, and DESC is of course free to make a separate filing if it wishes to do so.

Thanks,

Kate Mixson
Staff Attorney

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[Charleston, SC 29403](#)

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From: Zeigler, Belton <Belton.Zeigler@wbd-us.com>

Sent: Monday, September 20, 2021 12:00:19 PM

To: Kate Lee Mixson; Bateman, Andrew; chad.burgess@dominionenergy.com;
matthew.gissendanner@dominionenergy.com; Grube-Lybarker, Carri; Hall, Roger; Edwards, Nanette;
Richard@rlwhitt.law; bsnowden@kilpatricktownsend.com; jamey.goldin@jameygoldin.com;
court.walsh@nelsonmullins.com; Gudrun Thompson; bguild@mindspring.com; dori.jaffe@sierraclub.org; Emma
Clancy

Subject: RE: [External] RE: Proposed Procedural Schedule for 2021 DESC IRP Update (DN 2021-9-E and 2019-226-E)

Kate:

As DESC indicated both at the recent hearing and in subsequent emails, it is not prepared to consent to your position that parties may appropriately request a hearing for IRP updates. In addition, we have reviewed the specific request made by Commissioner Ervin to which you were asked to respond. His instructions to you were "to draft a proposed order for the other attorneys to consent to ***if they all are in agreement with your proposed schedule.***" (emphasis supplied). He specifically sought a return that would provide the Commission with "***something that we know everyone has agreed upon.***" He specifically noted that the issue concerning a hearing might not come up at all since it is possible that "all parties could be satisfied with the final result and there'd be no need for a hearing."

Accordingly, DESC believes that to submit a motion that all parties are not able to agree to would contrary to the Commission directive and one to which DESC will be required to object. We request that you prepare and submit a motion that deals with the scheduling of comments only as the Commission intended in its instructions concerning this matter.

Sincerely,

Belton

RE: [External] RE: Proposed Procedural Schedule for 2021 DESC IRP Update (DN 2021-9-E and 2019-226-E)

Bateman, Andrew <abateman@ors.sc.gov>

Fri 9/17/2021 3:43 PM

Inbox

To: Dori Jaffe <dori.jaffe@sierraclub.org>; Kate Lee Mixson <kmixson@selcsc.org>;

Cc: Belton T. Zeigler <Belton.Zeigler@wbd-us.com>; chad.burgess@dominionenergy.com <chad.burgess@dominionenergy.com>; matthew.gissendanner@dominionenergy.com <matthew.gissendanner@dominionenergy.com>; Grube-Lybarker, Carri <clybarker@scconsumer.gov>; Hall, Roger <RHall@scconsumer.gov>; Edwards, Nanette <nedwards@ors.sc.gov>; Richard@rlwhitt.law <richard@rlwhitt.law>; bsnowden@kilpatricktownsend.com <bsnowden@kilpatricktownsend.com>; jamey.goldin@jameygoldin.com <jamey.goldin@jameygoldin.com>; court.walsh@nelsonmullins.com <court.walsh@nelsonmullins.com>; Gudrun Thompson <gthompson@selcnc.org>; bguild@mindspring.com <bguild@mindspring.com>; Emma Clancy <eclancy@selcsc.org>;

1 attachments (25 KB)

DRAFT_Joint Motion for Amended Procedural Schedule_DN 2021-9-E_9-16-21.amb.docx;

Kate,

Thank you for drafting the attached Motion. I have suggested one small edit to paragraph 3, which is required to accurately state the position ORS took in the letter I filed previously. With the attached edit, you may state that ORS does not object to the proposed procedural schedule or the request that parties be permitted to request an evidentiary hearing. However, ORS does not wish to be a joint movant.

Please don't hesitate to reach out with any questions.

Thanks,

Andrew

From: Dori Jaffe <dori.jaffe@sierraclub.org>

Sent: Thursday, September 16, 2021 6:05 PM

To: Kate Lee Mixson <kmixson@selcsc.org>

Cc: Bateman, Andrew <abateman@ors.sc.gov>; Belton T. Zeigler <Belton.Zeigler@wbd-us.com>; chad.burgess@dominionenergy.com; matthew.gissendanner@dominionenergy.com; Grube-Lybarker, Carri <clybarker@scconsumer.gov>; Hall, Roger <rhall@scconsumer.gov>; Edwards, Nanette <nedwards@ors.sc.gov>; Richard@rlwhitt.law; bsnowden@kilpatricktownsend.com; jamey.goldin@jameygoldin.com; court.walsh@nelsonmullins.com; Gudrun Thompson <gthompson@selcnc.org>; bguild@mindspring.com; Emma Clancy <eclancy@selcsc.org>

Subject: Re: [External] RE: Proposed Procedural Schedule for 2021 DESC IRP Update (DN 2021-9-E and 2019-226-E)

Thanks Kate.

This looks good on behalf of the Sierra Club. You may sign on our behalf. Here is a signature block:

Dori Jaffe

Managing Attorney

50 F Street, NW, Eighth Floor

Washington, DC 20001

202-675-6275 (direct)

dori.jaffe@sierraclub.org

On Thu, Sep 16, 2021 at 1:44 PM Kate Lee Mixson <kmixson@selcsc.org> wrote:

All,

Thanks for your responses. I have attached a draft motion here for parties' review and input. I realized in my initial email I neglected to include the additional deadline for responsive comments. DESC requested 14 days after initial comments, which I believe is January 28; that is amenable to us as well, and is included in this draft. The highlighted portions are holds for any other parties that wish to join the motion, and/or their respective positions.

Belton, given that a central purpose of the oral arguments was to discuss the possibility of a hearing, we intend to include intervenors' request that the Commission allow parties to request an evidentiary hearing in their responsive comments, and the statutory grounds supporting the Commission's authority to hold a hearing at its discretion. If DESC wishes to join the rest of the motion but would object to that portion, we can certainly indicate that in the motion.

Andrew, could you clarify your concern about the ORS report deadline? I believe that DESC filed its update on August 17, and 120 days after that would be December 15th. Also, the draft currently indicates that that ORS does not object to the proposed report/comment deadlines or the request regarding an evidentiary hearing, but please let us know if that is not the case, or if ORS wishes to sign onto the motion.

Feel free to offer any suggestions or edits you may have, and please let us know if your client is comfortable joining the motion (in part or in full) or would not object.

Thank you,

Kate Mixson

Staff Attorney

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From: Bateman, Andrew <abateman@ors.sc.gov>

Sent: Friday, September 10, 2021 5:01:05 PM

To: Belton T. Zeigler; Kate Lee Mixson; chad.burgess@dominionenergy.com; matthew.gissendanner@dominionenergy.com; Grube-Lybarker, Carri; Hall, Roger; Edwards, Nanette; Richard@rlwhitt.law; bsnowden@kilpatricktownsend.com; jamey.goldin@jameygoldin.com; court.walsh@nelsonmullins.com; Gudrun Thompson; bguild@mindspring.com;

dori.jaffe@sierraclub.org; Emma Clancy

Subject: RE: [External] RE: Proposed Procedural Schedule for 2021 DESC IRP Update (DN 2021-9-E and 2019-226-E)

Kate:

ORS plans to file its Report 120 days from the date on which DESC filed the IRP update; however, you may indicate that ORS does not object to the proposed report and comment timeline you've outlined below.

Thanks,

Andrew

From: Zeigler, Belton <Belton.Zeigler@wbd-us.com>

Sent: Friday, September 10, 2021 11:29 AM

To: Kate Lee Mixson <kmixson@selcsc.org>; chad.burgess@dominionenergy.com; matthew.gissendanner@dominionenergy.com; Bateman, Andrew <abateman@ors.sc.gov>; Grube-Lybarker, Carri <clybarker@scconsumer.gov>; Hall, Roger <rhall@scconsumer.gov>; Edwards, Nanette <nedwards@ors.sc.gov>; Richard@rlwhitt.law; bsnowden@kilpatricktownsend.com; jamey.goldin@jameygoldin.com; court.walsh@nelsonmullins.com; Gudrun Thompson <gthompson@selcnc.org>; bguild@mindspring.com; dori.jaffe@sierraclub.org; Emma Clancy <eclancy@selcsc.org>

Subject: [External] RE: Proposed Procedural Schedule for 2021 DESC IRP Update (DN 2021-9-E and 2019-226-E)

Kate:

In the interest of shaping a motion that all parties can support, Dominion Energy South Carolina would suggest that we limit the consent agreement to the timetable for comments and leave open the issue of whether or not a hearing would be within the scope of the Commission's authority until a party request a hearing. With that change, DESC would be agreeable to the terms you suggest.

Belton

Belton Zeigler

Partner

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From: Kate Lee Mixson <kmixson@selcsc.org>

Sent: Thursday, September 9, 2021 2:00 PM

To: chad.burgess@dominionenergy.com; matthew.gissendanner@dominionenergy.com; abateman@ors.sc.gov; clybarker@scconsumer.gov; rhall@scconsumer.gov; Zeigler, Belton <Belton.Zeigler@wbd-us.com>; nedwards@ors.sc.gov; Richard@rlwhitt.law; bsnowden@kilpatricktownsend.com; jamey.goldin@jameygoldin.com; court.walsh@nelsonmullins.com; Gudrun Thompson <gthompson@selcnc.org>; bguild@mindspring.com; dori.jaffe@sierraclub.org; Emma Clancy <eclancy@selcsc.org>

Subject: Proposed Procedural Schedule for 2021 DESC IRP Update (DN 2021-9-E and 2019-226-E)

Counsel,

Following up on Commissioner Ervin's request during the oral arguments on the DESC IRP Update yesterday, I wanted to get other parties' feedback about a procedural schedule we may be able to agree upon moving forward.

These are the general terms of a schedule that we would propose, as we outlined in our earlier comments and the argument yesterday:

- Wednesday, December 15, 2021 (120 days after IRP Update filing):
 - Deadline for ORS to file its report with the Commission
- Friday, January 14, 2022 (30 days after ORS Report):
 - Deadline for parties to provide comments on the ORS Report and IRP Update.
 - If parties, including ORS, wish to request an evidentiary hearing on specified contested issues that are not capable of resolution based on the IRP Update, ORS Report and comments, they may do so by this deadline.
- The Commission may require prefiled testimony and schedule such a hearing in its discretion.

Commissioner Ervin noted that this could possibly be in the form of a consent decree or proposed order, but it seems like it might make more sense if it were framed as a motion that the Commission could vote on at its next business meeting. Please let me know if you have any feedback or concerns with the general terms of this schedule and approach; if these are agreeable, I would be happy to send out a draft motion later this afternoon, with a goal of filing by tomorrow.

Thank you,

Kate Mixson

Staff Attorney

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CERTIFICATE OF SERVICE

I hereby certify that the parties listed below have been served via first class U.S. Mail or electronic mail with a copy of the *Joint Motion Requesting an Amendment of the Procedural Schedule* filed by the South Carolina Coastal Conservation League, Southern Alliance for Clean Energy, Carolinas Clean Energy Business Association, and Sierra Club today.

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Weston.adams@nelsonmullins.com

This 22nd day of September, 2021.
s/Kate Mixson